IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

LA.App..No. 440 of 2005(D)

LAR NO.38/1994 OF SUB COURT, MAVELIKKARA

APPELLANT: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER SHRI BASANT BALAJI

RESPONDENTS: CLAIMANTS

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1. RAMACHANDRAN, POOVANKULATHU
KIZHAKKETHIL, NJAKKANAL MURI, KRISHNAPURAM.

2. RADHA W/O. RAMACHANDRAN OF DO. DO.

BY ADV. SRI.SANAL P.RAJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

L.A.A.No.440 of 2005

Dated, this the 11th day of December, 2007

JUDGMENT

State has filed this appeal challenging the decree and judgment passed by the court below in L.A.R.No.38/1994. An area of 0.22 ares comprised in Sy.No.877/23 of Krishnapuram Village was acquired for a public purpose. Land Acquisition Officer awarded compensation at the rate of Rs.7,798/- per are. Respondents filed an application under Section 18 of the Land Acquisition Act to refer the matter to the Subordinate Judge's Court, Mavelikkara. Learned Sub Judge relying on Ext.A1 judgment rendered by him in L.A.R.No.585/1993 awarded enhancement in the compensation holding that the judgment rendered in that case had become final and conclusive. Challenging the judgment and decree this appeal is filed.

2. It is brought to my notice that the State had filed L.A.A.No.518/2000 challenging the decree and judgment passed in L.A.R. No.585/1993 before this Court and this Court on 20.11.2003 set aside the decree and judgment in L.A.R. No.585 of 1993 and remanded the matter for fresh disposal. It is also brought to my notice that after remand L.A.R.No.585/1993 was again disposed of on 21.12.2004. Since Ext.A1 judgment was set aside it is only just and proper that the impugned judgment and decree also be set aside and the matter remanded to the trial court for fresh disposal in accordance with law.

In the result, appeal is allowed. The Decree and judgment passed in L.A.R. No.38/1994 are hereby set aside. Case is remanded to trial court for fresh disposal in accordance with law after affording both sides an opportunity to adduce further evidence, if so advised. Parties are directed to appear before the trial court on 18.1.2008.

I.A.No.1293/2005 will stand dismissed.

K. PADMANABHAN NAIR,
JUDGE.

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